

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

NATIONAL MARINE INSURANCE)
AGENCY LIMITED and VERO)
INSURANCE LIMITED Trading as VERO)
NATIONAL MARINE, as Subrogee of)
JOSSCO AUSTRALIA PTY LIMITED,)

Plaintiff,)

vs.)

AG PROCESSING, INC., et al.,)

Defendant/Third Party Plaintiff,)

vs.)

KINDER MORGAN BULK TERMINALS,)
INC.,)

Third Party Defendant.)

8:05CV79

AMENDED FINAL
PROGRESSION ORDER

This matter is before the court on the Unopposed Motion to Extend Scheduling Deadlines (#130). A telephonic hearing was held with counsel on January 4, 2007. Shari Friedman represented the plaintiff. James Powers represented AG Processing and Michael Noone represented Kinder Morgan Bulk Terminals.

IT IS ORDERED:

1. **Deposition Deadline.** All depositions, whether or not they are intended to be used at trial, shall be completed by **September 15, 2007**. All interrogatories, requests for admission and requests for production or inspection, whether or not they are intended to be used at trial, shall be served sufficiently early to allow rule time response before that date. Counsel may stipulate to extensions of time to respond to discovery requests in accordance with Fed. R. Civ. P. 29, as amended, but such extensions shall not extend any of the dates in this order; any requests for extensions of any of the deadlines herein shall be made by appropriate motion and order.

2. **Disclosure of Expert Witnesses.** Plaintiff Jossco shall disclose their experts by **January 30, 2007**. Defendant and Third-Party Plaintiff AG Processing shall disclose their experts by **June 1, 2007**. Third Party Defendant Kinder Morgan shall

disclose their experts by **July 16, 2007**. All rebuttal experts shall be disclosed by **August 15, 2007**.

3. **Pretrial Disclosures:** Pursuant to Fed. R. Civ. P. 26(a)(3), each party shall provide to all other parties the following information regarding the evidence that it may present at trial other than solely for impeachment purposes as soon as practicable **but not later than the date specified:**

A. Nonexpert Witnesses - On or before December 7, 2007:

The name, address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.

B. Deposition Testimony and Discovery - On or before: December 7, 2007: 1) The portions of each deposition, designated by page and line, that it intends to offer and 2) each discovery response of another party it intends to offer. Such designations and any objections thereto shall also be included in the final pretrial conference order. See NECivR 16.2.

C. Trial Exhibits - On or before December 7, 2007: A list of all exhibits it expects to offer by providing a numbered listing and permitting examination of such exhibits. The parties shall also designate on the list those exhibits it may offer only if the need arises.

D. Waiver of Objections: Any objections to the use of witnesses, deposition designations, discovery responses, or exhibits shall be listed in the pretrial order. Failure to list objections (except those under Fed. R. Evid. 402 and 403) shall be deemed waived, unless excused by the court for good cause shown.

E. Filing of Disclosures: The filing of pretrial disclosures required by Fed. R. Civ. P. 26(a)(3) shall be deemed filed at the time of the filing of the Order on Final Pretrial Conference in this matter.

4. **Motions in Limine.**

A. Daubert Motions. Any motion *in limine* challenging the admissibility of testimony of an expert witness under Rule 702, Fed. Rules

of Evidence shall be filed **on or before December 14, 2007**, in the absence of which any objection based upon said rule shall be deemed waived. See *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137 (1999); *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993).

B. Any other motions *in limine* shall be filed not later than **December 14, 2007**.

5. **All** motions for summary judgment shall be filed **on or before September 28, 2007**. See NECivR 56.1 and 7.1.

6. **The Final Pretrial Conference** with the undersigned magistrate is set for **December 20, 2007 at 10:00 A.M.**, in chambers, Suite 2210, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska. The final pretrial conference shall be attended by lead counsel for represented parties. Counsel shall complete prior to the pretrial conference, all items as directed in NECivR 16.2. By the time of the pretrial conference, full preparation for trial shall have been made so that trial may begin at any time during the session indicated below.

7. **A Jury trial** is set to commence **at 8:30 a.m. on January 22, 2008**, in Omaha, Nebraska, before the **Honorable Laurie Smith Camp**.

8. **On or before November 20, 2007**, the parties are to provide a status report regarding settlement negotiation. The report shall be in the form of a letter to the court from the plaintiff on behalf of all of the parties.

9. **Motions to Alter Dates.** All requests for changes of date settings shall be directed to the undersigned magistrate judge by appropriate motion.

DATED: January 4, 2007.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**